

POLICY AND LAW COMMITTEE MEETING
APRIL 12, 2007 – 1 PM
APPOQUINIMINK STATE SERVICE CENTER – MIDDLETOWN, DE

Present: Brian Hartman, DLP; Jamie Wolfe, Consumer; Victor Orija, Ombudsman's Office; Brian Bard, Consumer (via phone); Tim Brooks, CDS; Wendy Strauss, GACEC; Pat Maichle, DDC; Al Rose, DDC; Vince Boehm, DDC; Bob Osgood, SCPD; Carolanne O'Brien, DVR; Rita Marocco, NAMI-DE; Kyle Hodges, Staff.

Absent: Daniese McMullin-Powell, SCPD; Regina Byers, GCAAPD; Tony Horstman, Parent; Marge Turner, UCP; Doyle Dobbins, DELARF; Ray Brouillette, Easter Seals; Norwood Coleman, Family Member; Cookie Austin, Parent; Rita Landgraf, SCPD; Karen Lazar, Ombudsman's Office; Chris Long, DHSS/DDDS; Liz Schantz, Consumer

CALL TO ORDER

Bob Osgood called the meeting to order at 1:10 PM.

ADDITIONS OR DELETIONS TO THE AGENDA

Kyle added HB 112 and the DDDS eligibility criteria. Brian added an update on the accessory dwelling units (ADU) and Pat added an "Amber Alert" issue.

APPROVAL OF MINUTES

The minutes from the March 2007 meeting were approved as submitted.

REVIEW OF BILLS AND REGULATIONS

1. DMMA Final Institutionalized Spouse Regulation [10 DE Reg. 1619 (April 1, 2007)] – It was agreed no further action was needed.

2. DMMA Final LTC Transfer of Assets Penalty Regulations [10 DE Reg. 1613 (April 1, 2007)] – Motion was made, seconded and approved for SCPD to share the background on this issue consistent with Brian's memo with Carol Ellis and Tom Murray with DLTCRP.

3. DMMA Final LTC Savings Bond Regulation [10 DE Reg. 1611 (April 1, 2007)] - It was agreed no further action was needed.

4. DMMA Final LTC Annuity Regulation [10 DE Reg. 1601 (April 1, 2007)] - It was agreed no further action was needed.

5. DMMA Final LTC Promissory Note & Life Estate Regs. [10 DE Reg. 1596 (April 1, 2007)] - Motion was made, seconded and approved for SCPD to share the concerns that are still apt and consistent with Brian's memo with the DMMA Director.

10. DOE Proposed Health-Related Regulations [10 DE Reg. 1513 (April 1, 2007)] – It was agreed to add a “cold turkey” example. You could have a child really hurt by the implementation of the “Administration with Medications and Treatments” regulations. For example, a child could be prescribed medication all summer and then attends school and is literally not allowed to receive the medication. This “cold turkey” approach could certainly hurt a child. This will also be forwarded to the Psychiatric Society of Delaware.

13. S.B. No. 46 (Motorcycle Helmets) – Motion was made, seconded and approved for SCPD to send a letter strongly endorsing the bill consistent with Brian’s memo. The letter will be shared with DMMA, the Budget Office, Brain Injury Association, Dept. of Safety and Homeland Security and the SCPD Brain Injury Committee. It will also be copied to the lobbying organization for insurance companies if identified.

15. H.B. No. 78 (Cell Phone Use in Vehicles) – Brian Bard asked if someone could be ticketed for dialing a cell phone even though they have a hands free set. Brian Hartman noted that the bill covers “texting”. Brian H. also noted that the bill reads as follows: “No person shall use a mobile telephone while operating a moving motor vehicle in the State unless the telephone or device is equipped with a hands-free accessory. “ Therefore, given the way it reads, a driver may be able to dial with a hands free set. Rita noted how this relates to inattentive driving and why should this be solely identified if other activities (e.g. eating, shaving, etc) can cause inattentive driving. Brian H. believed this bill would be easier to enforce and Tim Brooks believed that accidents due to cell phone use are on the rise. Motion was made, seconded and approved for SCPD to endorse the bill with 2 amendments consistent with Brian’s memo. Rita Marocco and Pat Maichle voted no to the motion.

16. H.B. No. 49 (Cigarette Tax) – Brian recommended deleting “sold in Delaware from 27.5 cents to 50 cents” in the 2nd sentence of the first paragraph since this is inconsistent with the Code. Jamie noted several items, including Medicaid Buy-In, are tied to passage of this bill. Motion was made, seconded and approved for SCPD to write a letter consistent with Brian’s memo with the caveat that Council prefers that the Medicaid Buy-in and other initiatives in the Delaware Healthy Life Fund not be tied to the cigarette tax. If this is the only way these initiatives can be funded, then SCPD supports the legislation.

18. S.B. No. 65 (Child Care “Tiered” Subsidy) - Since S.B. No. 65 and S.B. No. 66 amend the same sections of Title 31 Del.C. §392, these are truly alternative bills. If one is passed, the other could not pass without amendments. This comment will be provided in both letters addressing these bills.

20. H.B. No. 83 (Gas Station Accessibility) – It was noted that the predecessor bill (H.B. 113) came out of committee during the last legislative session. Kyle recommended sharing the observations on the bill with only the primary sponsor for his consideration and appropriate path forward. He has worked closely with SCPD and DDC on this issue, and Kyle believed it would be most appropriate for him to determine the course of action

regarding any amendments to the bill at this stage. The Committee agreed. Motion was made, seconded and approved to send 1 letter to the prime sponsor endorsing the bill with the recommendations in Brian's memo and another letter to the Legislature generally endorsing the bill.

OTHER BUSINESS

H.B. 112 - This Bill adds three members to the Council on Services for Aging and Adults with Physical Disabilities from the Delaware Aging Network. Kyle noted that there are currently 22 members and the membership is divided evenly between representatives from the disability and aging communities. The purpose of adding "3" members is to have one in each county. The committee preliminarily agreed to oppose the concept since it results in a membership which is skewed to the aging community. This was not the intent when the Council was established. However, Kyle will alert Regina Byers to the bill and it will be discussed in more detail at the SCPD full Council meeting on April 16th.

DDDS Eligibility Criteria – DDDS provided SCPD with a courtesy draft copy of its eligibility criteria and a meeting is scheduled for April 26th. Kyle noted that the regulation adds Asperger's Disorder, but the Division has now eliminated brain injury as a qualifying condition. The DDDS rationale on removal of "neurological conditions closely related to mental retardation" and removal of "brain injury (individual meets all criteria of 1992 AAMR definition including age manifestation)" is that, in practice, individuals with these conditions must meet the diagnostic criteria of mental retardation and so it was redundant with that part of the criteria. It also created confusion with some arguing that any neurological impairment was covered under the eligibility criteria. It was agreed that a small group of individuals will meet on April 24th at 3 PM at the Bear Library to discuss the draft regulation prior to the meeting on April 26th.

ADUs – Brian provided an update on the New Castle County ordinance which permits the building of accessory dwelling units, which are contained living spaces within or attached to a home if the lot size is under 2 acres. A separate unit can be constructed if the lot size is over 2 acres. The ordinance narrowly passed in a 7-6 vote. There was an amendment to the ordinance which limits ADU construction to 0.2 percent of the county's single family homes which amounts to about 200 units.

ADJOURNMENT

The meeting was adjourned at 3:15 PM.

Respectively submitted,

Kyle Hodges
SCPD Administrator
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